

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AUTODIE INTERNATIONAL, INC.¹

Employer

and

CASE GR-7-RD-3293

DAVID LOUIS BOOMGAARD, an Individual

Petitioner

and

INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW), AFL-CIO

Union

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.³
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:⁴

All full-time and regular part-time production and maintenance employees including programmers employed by the Employer at its 44 Coldbrook NW, Grand Rapids, Michigan facility; *but excluding* all office clerical employees, guards, professional employees, and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

**INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), AFL-CIO**

LIST OF VOTERS⁵

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **JULY 26, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **AUGUST 2, 2001**.



Dated July 19, 2001

at Detroit, Michigan

/s/ William C. Schaub, Jr.
Regional Director, Region Seven

**Section 103.20 of the Board's Rules concerns the posting of election notices.
Your attention is directed to the attached copy of that Section.**

1/ The name of the Employer appears as amended at the hearing.

2/ The parties waived the filing of briefs.

3/ The hearing officer's ruling precluding the parties from litigating the appropriateness of conducting a mail ballot election in the instant matter is affirmed. The mechanics of an election, including the use of mail ballots, are administrative matters to be decided after issuance of the decision and direction of election, by the regional director. See ***Oneida County Community Action Agency***, 317 NLRB 852 (1995); ***North American Soccer League***, 236 NLRB 1317, 1322 fn. 15 (1978).

The hearing officer also advised the parties that consistent with his position in discussions prior to the hearing, he would not allow the parties to litigate the eligibility of approximately 120 laid-off employees and instead the issue would be resolved in post-election proceedings, if necessary. The Employer takes the position that these employees have no reasonable expectation of being recalled and therefore are not eligible to vote in the election. The Union contends to the contrary, and the Petitioner took no position at hearing. No party objected to the hearing officer's ruling and no offer of proof was made by any party regarding the eligibility of these laid-off employees. Accordingly, the hearing officer's ruling is affirmed since it is accepted Board practice to defer questions of voter eligibility in appropriate circumstances until after an election in order to save agency resources for those cases in which eligibility actually becomes an issue. Bituma Corp. v. NLRB, 23 F.3d 1432 (8th Cir. 1994). See also, Mariah, Inc., 322 NLRB 586 (1996).

4/ The parties stipulated to the appropriateness of the approximately 399-employees unit, which is consistent with the certification of representative issued by the undersigned on April 18, 2000.

5/ If the election involves professional and nonprofessional employees, it is requested that separate lists be submitted for each voting group.

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